2002

Instructions for Form 5329

Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

A Change To Note

There is generally a 10% additional tax on distributions from qualified tuition programs that were not used to pay for education expenses.

Purpose of Form

Use Form 5329 to report any additional taxes on individual retirement arrangements (IRAs), other qualified retirement plans, modified endowment contracts, IRAs, modified education savings accounts (ESAs), QTPs, or Archer MSAs.

Who Must File

You must file Form 5329 if any of the following apply.

- You received an early distribution from a Roth IRA shown on Form 8606, line 21.
- You received an early distribution from a qualified retirement plan (other than a Roth IRA) and distribution code 1 is not shown in box 7 of Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

Note: You do not have to file Form 5329 if distribution code 1 is correctly shown in box 7 of all Forms 1099-R. Instead, see the instructions for Form 1040, line 58, for how to report the 10% additional tax directly on that line.

- You meet an exception to the tax on early distributions from the list on page 2 but box 7 of your Form 1099-R does not indicate an exception.

- You received taxable distributions fromCoverdell ESAs or QTPs.

- The contributions for 2002 to your traditional IRAs, Roth IRAs, Coverdell ESAs, or Archer MSAs are more than is allowable or you had a tax due from an excess contribution on line 17, 25, 33, or 41 of your 2001 Form 5329.

- You did not receive the minimum required distribution from your qualified retirement plan.

TIP

If you rolled over part or all of a distribution from a qualified retirement plan, the part rolled over or paid is subject to early distribution tax on early distributions. See the instructions for Form 1040, lines 15a and 15b or lines 16a and 16b, or Form 1040A, lines 11a and 11b or 12a and 12b, for how to report the rollover.

When and Where To File

File Form 5329 with your 2002 Form 1040 by the due date, including extensions, of your Form 1040.

If you do not have to file a 2002 income tax return, complete and file Form 5329 with the return (due by the 15th day of the month and year following the year you have a distribution). If you have more than one distribution, file a separate Form 5329 for each distribution.

Definitions

Qualified retirement plan. A qualified retirement plan includes:

- A qualified pension, profit-sharing, or stock bonus plan (including a 401(k) plan).
- A tax-sheltered annuity contract, A tax-sheltered annuity contract, and
- An IRA.

For purposes of the additional tax on early distributions, an eligible governmental section 457 deferred compensation plan is treated as a qualified retirement plan, but only to the extent that a distribution is attributable to an amount transferred from a qualified retirement plan (as defined above).

Note: Modified endowment contracts are not qualified retirement plans.

Traditional IRAs. For purposes of Form 5329, a traditional IRA is any IRA, including a simplified employee pension (SEP) IRA, other than a SIMPLE IRA or Roth IRA.

Early distribution. Generally, any distribution from your IRA, other qualified retirement plan, or modified endowment contract before you reach age 59½ is an early distribution.

Rollover. A rollover is a tax-free distribution of assets from one qualified retirement plan that is reinvested in another plan or the same plan.

TIP

If you roll over part or all of a distribution from a qualified retirement plan, the part rolled over or paid is subject to early distribution tax on early distributions. See the instructions for Form 1040, lines 15a and 15b or lines 16a and 16b, or Form 1040A, lines 11a and 11b or 12a and 12b, for how to report the rollover.

When and Where To File

File Form 5329 with your 2002 Form 1040 by the due date, including extensions, of your Form 1040.

If you do not have to file a 2002 income tax return, complete and file Form 5329 with the return (due by the 15th day of the month and year following the year you have a distribution). If you have more than one distribution, file a separate Form 5329 for each distribution.

Definitions

Qualified retirement plan. A qualified retirement plan includes:

- A qualified pension, profit-sharing, or stock bonus plan (including a 401(k) plan).
- A tax-sheltered annuity contract, A tax-sheltered annuity contract, and
- An IRA.

For purposes of the additional tax on early distributions, an eligible governmental section 457 deferred compensation plan is treated as a qualified retirement plan, but only to the extent that a distribution is attributable to an amount transferred from a qualified retirement plan (as defined above).

Note: Modified endowment contracts are not qualified retirement plans.

Traditional IRAs. For purposes of Form 5329, a traditional IRA is any IRA, including a simplified employee pension (SEP) IRA, other than a SIMPLE IRA or Roth IRA.

Early distribution. Generally, any distribution from your IRA, other qualified retirement plan, or modified endowment contract before you reach age 59½ is an early distribution.

Rollover. A rollover is a tax-free distribution of assets from one qualified retirement plan that is reinvested in another plan or the same plan.

TIP

If you roll over part or all of a distribution from a qualified retirement plan, the part rolled over or paid is subject to early distribution tax on early distributions. See the instructions for Form 1040, lines 15a and 15b or lines 16a and 16b, or Form 1040A, lines 11a and 11b or 12a and 12b, for how to report the rollover.

When and Where To File

File Form 5329 with your 2002 Form 1040 by the due date, including extensions, of your Form 1040.

If you do not have to file a 2002 income tax return, complete and file Form 5329 with the return (due by the 15th day of the month and year following the year you have a distribution). If you have more than one distribution, file a separate Form 5329 for each distribution.

Definitions

Qualified retirement plan. A qualified retirement plan includes:

- A qualified pension, profit-sharing, or stock bonus plan (including a 401(k) plan).
- A tax-sheltered annuity contract, A tax-sheltered annuity contract, and
- An IRA.

For purposes of the additional tax on early distributions, an eligible governmental section 457 deferred compensation plan is treated as a qualified retirement plan, but only to the extent that a distribution is attributable to an amount transferred from a qualified retirement plan (as defined above).

Note: Modified endowment contracts are not qualified retirement plans.

Traditional IRAs. For purposes of Form 5329, a traditional IRA is any IRA, including a simplified employee pension (SEP) IRA, other than a SIMPLE IRA or Roth IRA.

Early distribution. Generally, any distribution from your IRA, other qualified retirement plan, or modified endowment contract before you reach age 59½ is an early distribution.

Rollover. A rollover is a tax-free distribution of assets from one qualified retirement plan that is reinvested in another plan or the same plan.

TIP

If you roll over part or all of a distribution from a qualified retirement plan, the part rolled over or paid is subject to early distribution tax on early distributions. See the instructions for Form 1040, lines 15a and 15b or lines 16a and 16b, or Form 1040A, lines 11a and 11b or 12a and 12b, for how to report the rollover.

When and Where To File

File Form 5329 with your 2002 Form 1040 by the due date, including extensions, of your Form 1040.
• A distribution of certain excess IRA contributions (see the instructions for line 20, 21, and 23).

Note: Any related earnings withdrawn with excess contributions are subject to the additional tax on early distributions if you were under age 59 1/2 at the time of the distribution.
• A distribution of excess contributions from a qualified cash or deferred arrangement;
• A distribution of excess aggregate contributions to meet nondiscrimination requirements for employee contributions and matching employer contributions;
• A distribution of excess deferments; and
• A distribution from an IRA or governmental section 457 deferred compensation plan to the extent the distribution is not attributable to an amount transferred from a qualified retirement plan (excluding an eligible section 457 deferred compensation plan).

See the instructions for line 2 on this page for other distributions that are not subject to the tax.

Line 1
Enter the amount of early distributions included in income that you received from:
• A qualified retirement plan, including earnings on withdrawn excess contributions to your IRAs included in income in 2002 or
• A modified endowment contract entered into after June 20, 1988. Certain prohibited transactions, such as borrowing from your IRA or pledging your IRA assets as security for a loan, are considered to be distributions and may also cause you to owe the additional tax on early distributions. See Pub. 590 for details.

Exception for Roth IRA
Distributions
If you received an early distribution from a Roth IRA, include on line 1 of Form 5329 the amount from your 2002 Form 8606, line 21 and 25(b) by the amount, if any, allocable to the amount on your 1998, 1999, or 2000 Form 8606, line 15, or 2001 or 2002 Form 8606, line 17. The amount on line 21 of your 2002 Form 8606 is allocable, in the order shown, to the amounts on the lines listed below (to the extent a prior year distribution was not allocable to the amount). See Are Distributions From My Roth IRA Taxable? in Pub. 590 for details.

1. Your 1998 Form 8606, line 16.
2. Your 1999 Form 8606, line 15.
3. Your 1999 Form 8606, line 16.
4. Your 2000 Form 8606, line 16.
5. Your 2001 Form 8606, line 15.
6. Your 2001 Form 8606, line 16.
7. Your 2002 Form 8606, line 18.
8. Your 2002 Form 8606, line 17.

Example. You converted $20,000 from a traditional IRA to a Roth IRA in 1998 and converted $10,000 in 1999. Your 1998 Form 8606 had $5,000 on line 15 and $15,000 on line 16 and your 1999 Form 8606 had $3,000 on line 15 and $7,000 on line 16. You made Roth IRA contributions of $2,000 for 1998 and 1999. You did not make any Roth IRA conversions or contributions for 2000, 2001, or 2002, or take any Roth IRA distributions in 1998, 1999, 2000, or 2001. On July 9, 2002, at age 53, you took a $33,000 distribution from your Roth IRA. The first $4,000 of the distribution is allocated to your two $2,000 Roth IRA contributions, and $20,000 is shown on your 2002 Form 8606, line 21. $15,000 of the $29,000 is allocated first to your 1998 Form 8606, line 16, then $5,000 to your 1998 Form 8606, line 15, and $7,000 to your 1999 Form 8606, line 16. The remaining $2,000 is allocated to the $3,000 on your 1999 Form 8606, line 15. You enter $22,000 on line 1 ($29,000 minus the sum of $5,000 and $2,000). If you take a Roth IRA distribution in 2003, the first $1,000 will be allocated to the $1,000 remaining from your 1999 Form 8606, line 15, and will not be subject to the additional tax on early distributions.

Line 2
The additional tax on early distributions does not apply to the distributions described below. Enter on line 2 the amount that can be excluded. In the space provided, enter the applicable exception number (01-11).

No. Exception
01 Qualified retirement plan distributions due to separation from service in or after the year you reach age 55 (does not apply to IRAs).
02 Distributions made as part of a series of substantially equal periodic payments (made at least annually) for your life (or life expectancy) or the joint lives (or joint life expectancies) of you and your designated beneficiary (if from an employer plan, payments must begin after separation from service).
03 Distributions due to total and permanent disability.
04 Distributions due to death (does not apply to modified endowment contracts).
05 Qualified retirement plan distributions to the extent you have deductible medical expenses that can be claimed on line 4 of Schedule A (Form 1040).
06 Qualified retirement plan distributions made to an alternate payee under a qualified domestic relations order (does not apply to IRAs).
07 IRA distributions made to unemployed individuals for health insurance premiums.
08 IRA distributions made for higher education expenses.
09 IRA distributions made for purchase of a first home, up to $10,000.
10 Distributions due to an IRS levy on the qualified retirement plan.
11 Other (see instructions). Also, enter this code if more than one exception applies.

Other. The following exceptions also apply:
• Distributions incorrectly indicated as early distributions by code 1, J, or S in box 7 of Form 1099-R. Include on line 2 the amount you received when you were age 59 1/2 or older.
• Distributions from a plan maintained by an employer if:
  1. You separated from service by March 1, 1986;
  2. As of March 1, 1986, your entire interest was in pay status under a written election that provides a specific schedule for distribution of your entire interest; and
  3. The distribution is actually being made under the written election.
• Distributions that are dividends paid with respect to stock described in section 404(A).
• Distributions from annuity contracts to the extent that the distributions are allocable to the investment in the contract before August 14, 1982.
• For additional exceptions that apply to annuities, see Pub. 575.

Line 4
If any amount on line 3 was a distribution from a SIMPLE IRA received within 2 years from the date you first participated in the SIMPLE IRA plan, you must multiply that amount by 25%. These distributions are included in boxes 1 and 2a of Form 1099-R and are designated with code S in box 7.

Part II—Additional Tax on Certain Distributions From Education Accounts

Line 6
This tax does not apply to distributions:
• Due to the death or disability of the beneficiary;
• Made on account of a tax-free scholarship, allowance, or payment described in section 25A(g)(2);
• From QTPs that were used for the qualified higher education expenses of the beneficiary; or
• Distributions used for qualified higher education expenses included in income because the expenses were used to finance the Hope and lifetime learning credit.

Enter on line 6 the portion of line 5 that is excluded.

Part III—Additional Tax on Excess Contributions to Traditional IRAs
If you contributed more for 2002 than is allowable or you had an amount on line 17 of your 2001 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2002 excess contributions (see the instructions for line 15).

Line 9
Enter the amount from line 16 of your 2001 Form 5329 only if the amount on line 17 of your 2001 Form 5329 is more than zero.

Line 10
If you contributed less to your traditional IRAs for 2002 than your contribution limit for traditional IRAs, enter the difference.

The type and rule above prints on all proofs including departmental reproduction proofs. MUST be removed before printing.
If you are not married filing jointly, your contribution limit for traditional IRAs is the smaller of your taxable compensation (see page 1) or $3,000 ($3,500 if age 50 or older at the end of 2002). If you are married filing jointly, your contribution limit is generally $6,000 ($6,500 if one spouse is 50 or older at the end of 2002) and your spouse’s contribution limit is $3,000 ($3,500 if age 50 or older at the end of 2002). But if the combined taxable compensation for you and your spouse is less than $6,000 ($6,500 if one spouse is 50 or older at the end of 2002) and both spouses are 50 or older at the end of 2002, see How Much Can Be Contributed? in Pub. 590 for special rules.

If you contributed $1,000 to a traditional IRA in 2000, your only contribution to a Roth IRA in 2002, you may withdraw the excess contribution, including any related earnings, over the amount that may be contributed to your traditional IRA in 2000. On September 9, 2002, you withdrew $800, the entire balance in gross income (see the Instructions for Form 8606 for details). Also, if you had not reached age 59 1/2 at the time of the withdrawal, include the earnings as an early distribution on line 1 of Form 5329, lines 9 and 12. You withdraw any earnings on the withdrawn contribution and include the earnings in gross income (see the Instructions for Form 8606 for details). Also, if you had not reached age 59 1/2 at the time of the withdrawal, include the earnings as an early distribution on line 1 of Form 5329, lines 9 and 12.

You withdraw any earnings on the withdrawn contribution and include the earnings in gross income (see the Instructions for Form 8606 for details). Also, if you had not reached age 59 1/2 at the time of the withdrawal, include the earnings as an early distribution on line 1 of Form 5329, lines 9 and 12.

Part IV—Additional Tax on Excess Contributions to Roth IRAs

If you contributed more to your Roth IRA for 2002 than is allowable or you had an amount on line 25 of your 2001 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2002 excess contributions (see the instructions for line 23).

If you contributed less to your Roth IRAs for 2002 than is your contribution limit for Roth IRAs, enter the difference. Your contribution limit for Roth IRAs may be further reduced or eliminated if your modified AGI for Roth IRA purposes is over $150,000 if married filing jointly, $75,000 if married filing separately and $0 if single (see Pub. 590 for details). You withdraw any earnings on the withdrawn contribution and include the earnings in gross income (see the Instructions for Form 8606 for details). Also, if you had not reached age 59 1/2 at the time of the withdrawal, include the earnings as an early distribution on line 1 of Form 5329, lines 9 and 12.

Part V—Additional Tax on Excess Contributions to Coverdell ESAs

If the contributions to your Coverdell ESAs for 2002 were more than is allowable or you had an amount on line 33 of your 2001 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2002 excess contributions (see the instructions for line 31). You withdraw any earnings on the withdrawn contribution and include the earnings in gross income (see the Instructions for Form 8606 for details). Also, if you had not reached age 59 1/2 at the time of the withdrawal, include the earnings as an early distribution on line 1 of Form 5329, lines 9 and 12.

You withdraw any earnings on the withdrawn contribution and include the earnings in gross income (see the Instructions for Form 8606 for details). Also, if you had not reached age 59 1/2 at the time of the withdrawal, include the earnings as an early distribution on line 1 of Form 5329, lines 9 and 12.

Part V—Additional Tax on Excess Contributions to Coverdell ESAs

If the contributions to your Coverdell ESAs for 2002 were more than is allowable or you had an amount on line 33 of your 2001 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2002 excess contributions (see the instructions for line 31).

You withdraw any earnings on the withdrawn contribution and include the earnings in gross income (see the Instructions for Form 8606 for details). Also, if you had not reached age 59 1/2 at the time of the withdrawal, include the earnings as an early distribution on line 1 of Form 5329, lines 9 and 12.
Line 28
Enter your total distributions from Covered Ell ESAs in 2002. Do not include rollovers or returned excess contributions.

Line 31
Enter the excess of the contributions to your Coverdell ESAs for 2002 (not including rollovers) over your contribution limit for Coverdell ESAs. Your contribution limit is the smaller of $2,000 or the sum of the maximum amounts allowed to be contributed by the contributor(s) to your Coverdell ESAs. The maximum contribution may be limited based on the contributor’s modified AGI. See Pub. 970 for more details.

You may withdraw some or all of the excess contributions for 2002 and they will not be treated as having been contributed if:
- You make the withdrawal before June 1, 2003, and
- You also withdraw any income earned on the withdrawn contribution and include the earnings in gross income for the year in which the contribution was made.

If you filed your return without withdrawing the excess contributions, you may still make the withdrawal, but it must be made before June 1, 2003. If you do, file an amended return. Report any related earnings for 2002 on the amended return and include an explanation of the withdrawal. Make any other necessary changes on the amended return (for example, if you reported the contributions as excess contributions on your original return).

Part VI—Additional Tax on Excess Contributions to Archer MSAs
If you or your employer contributed more to your Archer MSA for 2002 than is allowable or you had an amount on line 41 of your 2001 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2002 excess contributions (see the instructions for line 39).

Line 34
Enter the amount from line 40 of your 2001 Form 5329 only if the amount on line 40 of your 2001 Form 5329 is more than zero.

Line 35
If the contribution limit for your Archer MSA (the smaller of line 5 or line 6 of Form 8853) is greater than the contributions to your Archer MSAs for 2002, enter the difference on line 35. Also include on line 7 of your 2002 Form 8853 the smaller of:
- Form 5329, line 35, or
- The excess, if any, of Form 5329, line 34, over Form 5329, line 36.

Line 39
Enter the excess of your contributions to your Archer MSA for 2002 (from Form 8853, line 4) over your contribution limit (the smaller of line 5 or line 6 of Form 8853). However, you may withdraw some or all of the excess contributions for 2002 and they will not be treated as having been contributed if:
- You make the withdrawal by the due date, including extensions, of your 2002 tax return and
- You withdraw any income earned on the withdrawn contributions and include the earnings in gross income for the year in which the contribution was made.

If you timely filed your return without withdrawing the excess contributions, you may still make the withdrawal no later than 6 months after the due date of your tax return, excluding extensions. If you do, file an amended return with “Filed pursuant to section 301.9100–2” written at the top. Report any related earnings for 2002 on the amended return and include an explanation of the withdrawal. Make any other necessary changes on the amended return (for example, if you reported the contributions as excess contributions on your original return).

Also include on line 39 any excess contributions your employer made. See Form 8853 for details.

Part VII—Additional Tax on Excess Accumulation in Qualified Retirement Plans
You owe this tax if you do not receive the minimum required distribution from your qualified retirement plan, including an IRA or an eligible section 457 deferred compensation plan, during the year in which you reach age 70 1/2. At that time, you must begin receiving distributions each year.

Required Distributions
IRA (other than a Roth IRA). You must receive distributions from your IRA by April 1 of the year following the year in which you reach age 70 1/2. At that time, you may receive your entire interest in the IRA or you may choose periodic distributions. If you choose to receive periodic distributions, you must receive a minimum required distribution each year. You may figure the minimum required distribution by dividing the account balance of your IRAs (other than Roth IRAs) on December 31 of the year preceding the distribution by the applicable life expectancy. For applicable life expectancies, see Pub. 970.

The trustee, custodian, or issuer of your IRA informs you of the minimum required distribution, you may use that amount.

If you have more than one IRA, you may take the minimum required distribution from any one or more of the individual IRAs.